establish programs by issuing detailed guidance and by conducting individual workshops. Interested areas should contact their EPA Regional Offices or the information contact listed above for assistance.

H. State Implementation Plan (SIP) Credits for Antitampering Programs

One commenter requested that EPA clarify whether the reductions achieved through an antitampering program could be applied to the minimum emission reduction requirement established for I/M programs. A second commenter suggested that an antitampering effort be allowed to substitute for the required I/M program. A third commenter recommended that EPA increase the I/M requirement to include the addition of emission control device physical inspections. EPA feels that those elements of a program which consist of inspection, repair, and reinspection of individual vehicles may appropriately be applied to the I/M emission reduction requirement. This specifically excludes credits from the fuel station and price equalization concepts from being applied to the I/M requirement. Such credits may be used for other SIP purposes, such as demonstration of future attainment of a National Ambient Air Quality Standard, demonstration of Reasonable Further Progress, and possibly as an offset in a new source permitting program.

A final issue raised by the commenters was the use of local tampering rates and driving conditions (speed, temperature, etc.) in calculating SIP credits. The new EPA computer model for calculating mobile source emission factors (MOBILE 3) will include tampering and fuel switching effects in the base emission factor and will have the capability to estimate the effect of an antitampering program under local rates and conditions. Areas wishing to establish localized credits will need to contact their EPA Regional Office for assistance.

All credits for antitampering and anti-misfueling programs in individual SIP submissions will be proposed for public comment in the SIP approval process.

Dated: December 30, 1983.

Sheldon Meyers,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 84-1145 Filed 1-16-84; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6498

[A12998, A13014, A13016, A13017, A13360, A13367, A13442, A13452, A17207, A17412]

Arizona; Public Land Order No. 6468: Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will correct an error in the land description contained in Public Land Order No. 6468 of September 26, 1983.

EFFECTIVE DATE: January 17, 1984.

FOR FURTHER INFORMATION CONTACT: Mario L. Lopez, Arizona State Office, (602) 261-4774.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The land description in Public Land Order No. 6468 of September 26, 1983, in FR Doc. 83-26576, published at page 44539, in the issue of Thursday, September 29, 1983, is corrected to read as follows:

On page 44539 in the first column, the last line reads sec. 13, lot 1. It should be corrected to read "sec. 13, lot 2."

Dated: January 6, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-1178 Filed 1-16-84; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6499

[W-29044]

Wyoming; Public Land Order No. 6388, Correction; Partial Revocation of Reclamation Project Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This document will correct an error in the land description contained in Public Land Order No. 6388 of May 16, 1983.

EFFECTIVE DATE: January 17, 1984.

FOR FURTHER INFORMATION CONTACT: Scott Gilmer, Wyoming State Office, 307-772-2089.

SUPPLEMENTARY INFORMATION: By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The description of a parcel of land in Public Land Order No. 6388 of May 16, 1983, as published in FR Doc. 83-13903 appearing at page 23225 in the issue of Tuesday, May 24, 1983, in the second column under T. 27 N., R. 107 W., line 3, reads sec. 25; it is hereby corrected to read sec. 24.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

January 6, 1984.

[FR Doc. 84-1198 Filed 1-16-84; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6500

[W-29542]

Wyoming; Public Land Order No. 6397, Correction, Partial Revocation of Executive Order of May 14, 1915

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This document will correct four errors in the land description contained in Public Land Order No. 6397 of June 16, 1983.

EFFECTIVE DATE: January 17, 1984.

FOR FURTHER INFORMATION CONTACT: Scott Gilmer, Wyoming State Office, 307-772-2089.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The descriptions of four parcels of land in Public Land Order No. 6397 of June 16, 1983, as published in FR Doc. 83-17288 appearing at page 29695 in the issue of Tuesday, June 28, 1983, are hereby corrected as follows: In the first column under T. 16 N., R. 107 W., line 1 reads "sec. 2, lots through 7 inclusive, E½SW¼," and is corrected to read "sec. 2, lots 5 through 7, inclusive, E½SW¼." In the first column under T. 12 N., R. 108 W., line 1 reads "sec. 1, E½, E½W½," and is corrected to read "sec. 1, E½, E½W½, E½W½W½,"; line 7 reads "sec. 19, lots 1, 8, E½, E½NW¼," and is corrected to read "sec. 19, lots 7, 8, E½, E½NW¼." In the first column under T. 15 N., R. 108 W., line 1 reads "sec. 10, W½W½, W½, S½NE¼SE¼," and is corrected to read "sec. 10, W½E½, W½, S½NE¼SE¼."

Dated: January 6, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84-1177 Filed 1-16-84; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 213

[Docket No. RST-3, Notice No. 6]

Track Safety Standards; Commuter Service Amendment

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Final rule.

SUMMARY: FRA is amending the Track Safety Standards to make them applicable to all track that is used to provide commuter or short-haul passenger service in a metropolitan or suburban area. This action is taken in response to a requirement of the Federal Railroad Safety Authorization Act of 1982 (Pub. L. 97-468, 96 Stat. 2579).

EFFECTIVE DATE: This final rule becomes effective February 16, 1984.

FOR FURTHER INFORMATION CONTACT: Philip Olekszyk, Deputy Associate Administrator for Safety, FRA, Washington, D.C. 20590. Telephone 202-426-0897.

SUPPLEMENTARY INFORMATION: A recent amendment to the Federal Railroad Safety Act of 1970 (Safety Act) (45 U.S.C. 431 *et seq.*) requires that, by January 14, 1984, FRA issue regulations to apply appropriate safety principles to track used for commuter service (Pub. L. 97-468, 96 Stat. 2579).

FRA's current track safety standards (49 CFR Part 213) apply to all standard gage track in the general railroad system of transportation, but exempt track used exclusively for commuter or other short-haul passenger service in a metropolitan or suburban area (49 CFR 213.3). These standards, adopted in 1971, establish minimum requirements for the condition of various components of the track, the relevant geometry parameters for these components, inspection procedures, and mandatory remedial actions.

On September 2, 1983, FRA issued a notice of proposed rulemaking (NPRM) to eliminate that current exclusion insofar as is applies to commuter or short-haul passenger service but to retain the exclusion for track that is used solely for rapid transit service (48 FR 39965). In addition to providing for written comments on the proposal, FR held a public hearing on October 4, 1983, to permit oral comment on the NPRM.

Six commenters responded to the proposed rule. Five expressed support for the proposal. The other commenter did not oppose the proposal, but expressed concern about a longstanding ambiguity over whether its operations should be classified as a rapid transit operation or a commuter operation. Two of the commenters recommended that FRA make additional changes to the regulation. These additional changes would involve: (i) Increasing the frequency for conducting internal rail flaw detection inspections; (ii) establishment of new rules to protect workmen performing track maintenance functions; and (iii) establishment of a requirement that all track used for commuter service meet the FRA standards for class 4 track contained in this regulation.

Since all of these recommended changes are beyond the scope of the notice of proposed changes issued by FRA, they have not been adopted. FRA will review these suggested changes and may address these issues in a future rulemaking. The ambiguity concerning the status of one commenter involves a number of FRA regulations in addition to the Track Safety Standards. Resolution of that issue must await further analysis by FRA and, in any event, does not affect the adoption of a final rule in this proceeding.

Based on the statutory directive, the available facts, and the comments received in response to the proposal, FRA has decided to adopt the changes as proposed in the NPRM. As confirmed by the two commenters who addressed the issue, adoption of the rule will have a relatively limited impact. First, approximately 4,800 miles of track used for commuter service and 300,000 miles of track used for freight or passenger service are already subject to the standards. Second, those operating over unregulated tracks currently adhere on a voluntary basis to the FRA standards or their own more stringent rules. As a consequence, no significant new or additional costs will be imposed by the adoption of this proposal. Conversely, neither FRA, for the reasons set forth in the NPRM, nor the commenters are able to establish a clear estimate of the safety benefits associated with this rule.

Regulatory Impact

This final rule has been evaluated in accordance with existing regulatory policies. It is neither a "major rule" as defined under Executive Order 12291 nor a significant rule under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). The rule contains only a single technical revision to the existing standards and would have an impact only on those entities that operate commuter service over track used exclusively for that purpose.

In general, the rule will not serve to increase the economic burdens of the existing regulation. It is of limited scope and imposes track standards already generally adhered to by commuter service operators. FRA believes that this provision will result, at most, in only a minor increase in recordkeeping burdens and their associated costs in isolated instances. Since the rule contains only a limited, technically oriented proposal, which is expected to have a minimal impact, FRA has determined that further evaluation is not necessary.

The proposed rule will have a direct impact only on the railroads or commuter agencies that own the 384 miles of track used exclusively for commuter or other short-haul passenger service. It will not place any requirements or burdens on the public. Nor will it increase the budgeted expenditures for track maintenance for the track owners, because they already allocate funding for track maintenance sufficient to meet or exceed these standards. The rule will not have any significant impact on any small entity, since no such entity operates over track used exclusively for commuter or other short-haul passenger service. Based on the facts set forth in this final rule, it is certified that the rule will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

The final rule indirectly contains provisions concerning the collection of information that are subject to the Paper Work Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*, Pub. L. 96-511). These provisions involve the need to record and maintain information concerning inspection activities under the requirements of § 213.7 and § 213.241. These information collection requirements have been submitted to the Office of Management and Budget (OMB). Such requirements apply to all track owners currently subject to the regulation. The expansion of these information collection requirements for the track covered in this proposal will not become effective until approved by OMB. Although FRA specifically solicited comments on the potential paperwork burden imposed by this rule, no comments on this issue were received.

List of Subjects in 49 CFR Part 213

Railroad safety.

In consideration of the foregoing, Part 213, Title 49, Code of Federal Regulations, is amended as set forth below:

The Final Rule

PART 213—[AMENDED]

1. 49 CFR Part 213 is amended by revising § 213.3 to read as follows:

§ 213.3 Application.

(a) Except as provided in paragraph (b) of this section, this part applies to all standard gage track in the general railroad system of transportation.

(b) This part does not apply to track—

(1) Located inside an installation which is not part of the general railroad system of transportation; or

(2) Used exclusively for rapid transit service in a metropolitan or suburban area.

(Sec. 202, 84 Stat. 971 (45 U.S.C. 431); sec. 1.49(m) of the Regulations of the Secretary of Transportation (49 CFR 1.49(m)))

Issued in Washington, D.C. on January 13, 1984.

John H. Riley,

Administrator.

[FR Doc. 84-1262 Filed 1-16-84; 8:45 am]

BILLING CODE 4910-06-M

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49 CFR Part 232

[Docket No. PB-6, Notice No. 3]

Railroad Power Brakes and Drawbars: Technical Amendment

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Technical amendment.

SUMMARY: This technical amendment revises section 232.17(b) to reference standard S-045 from the Manual of Standards and Recommended Practices of the Association of American Railroads (AAR). This action is taken by FRA as a result of action by AAR to move the passenger car periodic brake repair intervals from the AAR Code of Rules for cars in interchange to the Manual of Standards and Recommended Practices.

EFFECTIVE DATE: January 17, 1984.

FOR FURTHER INFORMATION CONTACT: Philip Olekszyk, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590; telephone (202) 426-0897.

SUPPLEMENTARY INFORMATION: FRA has established a requirement (49 CFR 232.17(b)) that brake equipment on railroad cars be cleaned, repaired, lubricated, and tested on a periodic basis. This periodic work, referred to in the railroad industry as COT&S, is done at various intervals depending on the type of brake equipment.

Since 1958, when the requirement was first established, the COT&S intervals for passenger and freight cars have been published in the AAR Code of Rules for cars in interchange, which is issued annually. However, the AAR has removed the passenger car COT&S intervals from the 1984 Code of Rules for cars in interchange, which became effective on January 1, 1984, and has included them in its Manual of Standards and Recommended Practices.

The technical amendment in this notice simply references the new location of the passenger car COT&S intervals. It does not change the substantive requirement for regular maintenance of brake equipment on passenger cars.

In addition, this notice provides a more complete address of the AAR, from which copies of the materials referenced in § 232.17 may be obtained.

Notice and Public Procedure

Since this amendment merely changes a referent in FRA's regulations and imposes no additional burden on any person, FRA finds that notice and comment procedures are not necessary. Also, since confusion could result from an incorrect reference, notice and public procedures are impractical; the rule is being issued on an emergency basis under Executive Order 12291. Similarly, to avoid confusion about the COT&S interval for passenger cars resulting from the revision to AAR Code of Rules, FRA finds good cause to make this amendment effective in less than 30 days upon publication.

Regulatory Impact

This amendment has been evaluated in accordance with existing regulatory policies. It is considered to be nonmajor under Executive Order 12291 and nonsignificant under the DOT policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this amendment has been found to be so minimal that further evaluation is unnecessary. Based on these facts, FRA certifies that the amendment will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The amendment will not have any environmental impact and does not involve directly or indirectly any information collection requirements.

List of Subjects in 49 CFR Part 231

Railroad safety.

The Final Rule

PART 232—[AMENDED]

In consideration of the foregoing, § 232.17 of Part 232 of Title 49, Code of Federal Regulations, is amended, effective upon publication, by revising paragraph (b) to read as follows:

§ 232.17 Freight and passenger train car brakes.

* * * * *

(b)(1) Brake equipment on cars other than passenger cars must be cleaned, repaired, lubricated and tested as often as required to maintain it in a safe and suitable condition for service but not less frequently than as required by currently effective AAR Code of Rules for cars in interchange.

(2) Brake equipment on passenger cars must be clean, repaired, lubricated and tested as often as necessary to maintain it in a safe and suitable condition for service but not less frequently than as required in Standard S-045 in the Manual of Standards and Recommended Practices of the AAR.

(3) Copies of the materials referred to in this section can be obtained from the Association of American Railroads, 1920 L Street, N.W., Washington, D.C. 20036.

(72 Stat. 86, 45 U.S.C. 9; sec. 6 (e), (f), 80 Stat. 939, 49 U.S.C. 1655; and sec. 1.49(c) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(c))

Issued in Washington, D.C. on January 13, 1984.

John H. Riley,

Administrator.

[FR Doc. 1261 Filed 1-16-84; 8:45 am]

BILLING CODE 4910-06-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1043

[Ex Parte No. MC-5 (Sub-2A)]

Motor Carriers of Passengers Minimum Amounts of Bodily Injury and Property Damage Liability Insurance

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: Section 18 of the Bus Regulatory Reform Act of 1982 requires the Commission to adopt minimum amounts of coverage for bodily injury and property damage liability for regulated motor carriers of passengers at levels no lower than those prescribed by the Secretary of Transportation under the new financial responsibility requirements of that Act.

The Commission is adopting rules modifying its regulations to reflect the required amounts at the same levels established by the Secretary for each of the new vehicle classifications

established in that Act, namely, (1) those with a seating capacity of 16 passengers or more, and (2) those with a seating capacity of 15 passengers or less.

EFFECTIVE DATE: February 16, 1984.

FOR FURTHER INFORMATION CONTACT:

Alice K. Ramsay, (202) 275–0854;
or
Margaret Richards, (202) 275–1538.

SUPPLEMENTARY INFORMATION:

Introduction

Section 18 of the Bus Regulatory Reform Act of 1982 (96 STAT. 1102–29, Pub. L. 97–261—Sept. 20, 1982 (BRRA)), amended 49 U.S.C. 10927(a)(1) to require motor carriers of passengers to file with the Commission a bond, insurance policy, or other type of security approved by the Commission, in an amount not less than such amount prescribed by the Secretary of Transportation pursuant to the provisions of the BRRA. This filing requirement is a predicate to our issuance of a certificate or permit under sections 10922 or 10923 of Title 49 of the United States Code. Moreover, such a certificate or permit remains in effect only as long as the carrier satisfies the security requirements of these financial responsibility provisions.

The BRRA Requirements

Under the BRRA, the Secretary of Transportation was obliged to establish regulations requiring minimal levels of passenger carrier financial responsibility. Those required levels had to be sufficient to satisfy liability amounts established for public liability and property damage for the transportation of passengers for hire, by motor vehicle, in the United States. The requirements apply specifically to transportation from a place in a State to a place in another State, from a place in a State to another place in such State through a place outside of such State, and between a place in a State and a place outside of the United States.[1]

The minimal level of financial responsibility which may be established by the Secretary under the BRRA are:

(1) For any vehicle with a seating capacity of 16 passengers or more not less than $5,000,000, except that the Secretary is authorized to reduce such amount to an amount not less than $2,500,000 for the 2-year period beginning on November 19, 1983, or any part of such period, and

(2) For any vehicle with a seating capacity of 15 passengers or less not less than $1,500,000, except that the Secretary is authorized to reduce such amount to an amount less than $750,000 for any class of such vehicles or operations for the 2-year period beginning on November 19, 1983, or any part of such period,

predicated on findings by the Secretary, with respect to the particular class of transportation of passengers, that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service.

If the Secretary had not established regulations effective November 19, 1983, to require minimal levels of financial responsibility for any class of transportation of passengers, the levels of financial responsibility for such class of transportation would have been the statutory $5,000,000 minimum amount in the case of motor vehicles with a seating capacity of 16 passengers or more and the $1,500,000 amount in the case of motor vehicles having a seating capacity of 15 passengers or less, until such time as the Secretary, by regulation, changes such amount.

Section 18(h) of the BRRA amended section 10927(a)(1) of Title 49 of the United States Code to authorize the Commission to issue a certificate or permit to a motor carrier of passengers *only* if the carrier files with it a bond, insurance policy, or other type of security approved by the Commission, in an amount not less than such amount as the Secretary of Transportation prescribes pursuant to, or as is required by, the provisions of section 18 of the BRRA. Under section 10927(a)(1) the security must be sufficient to pay, not more than the amount of the security, for each final judgment against the carrier for bodily injury, or death of, an individual resulting from the negligent operation, maintenance, or use of motor vehicles under the certificate or permit, or for the loss or damage to property (except cargo), or both. And, as noted previously, section 10927(a)(1) also provides that a certificate or permit remains in effect only as long as the carrier satisfies these requirements.

Background and Purpose of This Proceeding

In *Ex Parte No. MC–5 (Sub-No. 2), Motor Carriers and Freight Forwarders Insurance Procedures and Minimum Amounts of Liability*, in proposing changes in the Commission's regulations relating to the required limits on filings of evidence of security by insurance and security companies, we observed, at 49 FR 55976 (December 14, 1982):

> We also anticipate much higher limits of liability for motor passenger carriers as a result of the Secretary of Transportation's Implementation of the insurance provisions of the Bus Regulatory Reform Act of 1982.

Later in that same proceeding, in announcing final rules, 48 FR 51777 (November 14, 1983) at 51779, we described the then pending DOT rulemaking proceeding to implement the requirements of the BRRA at limits higher than those in force in the Commission's regulations, saying:

> In light of the certainty of those major changes in limits requirements and the additional requirements of section 18 of the BRRA that the Commission require security "in an amount not less than" prescribed by the Secretary of Transportation, no new limits will be prescribed for passenger carriers in this proceeding at this time. Instead, in order to minimize confusion, we will make changes in section 1043.2(b)(1)(b) as soon after completion of the DOT proceeding as possible.

In the Ex Parte No. MC–5 (Sub-No. 2), proceeding and in *Ex Parte No. MC–5 (Sub-No. 1), Motor Carriers of Property Minimum Amounts of Bodily Injury and Property Damage Liability Insurance*, we have made changes in the Commission's programs and procedures to provide for the filing and acceptance of security for motor carriers, brokers, and freight forwarders. Included among those changes were provisions (1) to recognize any new endorsement or bond form prescribed by DOT; (2) to allow filings by insurance and surety companies that qualify under the State qualifications standards required by DOT; (3) to permit aggregation of coverage through multiple policies from the first dollar of coverage for bodily injury and property damage for motor carriers of passengers, in the same manner as DOT; and (4) to permit the use of either combined single limit or split limit coverage, as does DOT, provided the levels of financial responsibility written meet the required minimums. In short, all that remains for this Commission to do in implementing the requirements of section 18 of the BRRA is to establish limits at least equal to those of DOT, and to set an effective date for filing security under the new rules.

The purpose of this proceeding is to establish those limits and the filing date.

The DOT Rulemaking

Limits

To implement the BRRA requirements the Bureau of Motor Carrier Safety of

[1] "State" means a State of the United States and the District of Columbia for the purposes of this law. Also, certain school bus, taxicab, and commuter vanpool vehicles are exempt from the BRRA requirements in effectively the same terms that they are exempt from the Commission's licensing requirements.

the Federal Highway Administration (FHWA) of the Department of Transportation published a Notice of proposed rulemaking in the **Federal Register** on Tuesday, May 31, 1983 (48 FR 24147), concerning the minimum levels of financial responsibility for motor carriers of passengers. It requested, and received, comments concerning what minimum levels of financial responsibility for motor carriers of passengers would meet best the requirements of the BRRA. On November 17, 1983, it issued a Final Rule, published at 48 FR 52679 (November 21, 1983), establishing minimum levels of financial responsibility for for-hire motor carriers of passengers involved in interstate or foreign transportation. After reviewing the arguments made in the comments, DOT, in pertinent part, said:

> With all things considered (i.e., protection of the public, the stability of the bus industry, the ability of the insurance industry to provide the coverage and the particular needs of small and minority motor carriers), the question which begs to be answered is what *minimum* levels of financial responsibility are sufficient? We stress the word "minimum" as it has appeared since the inception of the Bus Regulatory Reform Act.
>
> The FHWA firmly believes, based on its accident data and the data provided by the insurance industry, that with less than one one-hundredth of one percent of all commercial vehicle accidents resulting in claim settlements of more than $500,000, the lowest levels allowed in the Act are sufficient. This is not to say that the FHWA does not encourage motor carriers of passengers to maintain levels of liability coverage sufficient to cover their assets and fully protect their concerns. What is at issue here is the absolute minimum which must be maintained before a motor carrier of passengers subject to these rules may operate its vehicles on the public highway system.

DOT thus concluded that the minimum levels, for each classification of passenger carrier, from November 19, 1983, until November 19, 1985 (or earlier should the Secretary so decide), should be at the lowest level within the Secretary's discretion under the BRRA, and adopted a rule, 49 CFR 387.33, as follows:

§ 387.33 Financial responsibility, minimum levels.

The minimum levels of financial responsibility referred to in section 387.31 of this subpart are hereby prescribed as follows:

Schedule of Limits—Public Liability

FOR-HIRE MOTOR CARRIERS OF PASSENGERS OPERATING IN INTERSTATE OR FOREIGN COMMERCE

Vehicle seating capacity	Effective dates	
	Nov. 19, 1983	Nov. 19, 1985
(1) Any vehicle with a seating capacity of 16 passengers or more	$2,500,000	$5,000,000
(2) Any vehicle with a seating capacity of 15 passengers or less.*	750,000	1,500,000

* Except as provided in section 387.27(b). (The exceptions relate to vehicles not subject to regulation by the Interstate Commerce Commission.)

Forms

In its final rules, DOT adopted two standard forms, namely, the Form MCS–90B endorsement and the Form MCS–82B Surety Bond. These forms are substantially similar to those previously adopted by DOT for use of property carriers and they meet the requirements of the Commission's rule 49 CFR 1043.7(a), *Forms and Procedures.* Thus, they are recognized by the Commission for use in our motor passenger carrier financial responsibility security program. Commenting on these forms, DOT noted that both forms are currently under review by the Office of Management and Budget under the Paperwork Reduction Act of 1980 and indicated that final action on these forms by OMB is expected within 90 days. It recognized the problem that the insurance industry will have in trying to get the required endorsements into the hands of its passenger carrier clients, saying:

> Time is needed to satisfy the endorsement requirement. In view of this, the Bureau of Motor Carrier Safety does not intend to enforce the requirement that passenger carriers have the endorsement(s) attached to their policies of insurance for 90 days from either the effective date of November 19, 1983, or the date OMB approves the forms, whichever is later.
>
> It should be understood that this is in no way a relaxation of the minimum levels of financial responsibility. All passenger carriers must have the required minimum levels of financial responsibility as of November 19, 1983.

As indicated earlier, the Commission contemplates the use of the DOT endorsement and bond forms. Obviously, however, we cannot require the attachment of Form MCS–909B endorsements to insurance policies or the filing of DOT prescribed surety bond, Form MCS–82B, until they are reviewed and approved by OMB. However, this need not delay the implementation of the Commission's new requirements imposed pursuant to the BRRA. Form BMC 82, which is a surety bond form prescribed for bodily injury and property damage bond filings has been approved by OMB for use through September 30, 1986, and its continued use (on an interim basis) will have the same consequences in this Commission's program as would the filing of Form MCS–82B. As for the endorsement forms, this Commission has been allowing carriers to file OMB approved certificates of insurance (Forms BMC 91 or 91X) without requiring related endorsements being actually attached to the policies of insurance since 1981. This practice can and will be continued with respect to passenger carriers' filings, at little or no inconvenience to the carriers or insurers, from the effective date of our rules until OMB approval of Form MCS–90 is obtained and its use required by DOT.

Discussion

Limits

While the Commission must establish limits of at least $2,500,000 for any vehicle with a seating capacity of 16 passengers or more and of at least $750,000 for any vehicle with a seating capacity of 15 passengers or less, and at least at the statutory limits after January 19, 1985, there is a question whether the limits we require in our program should be higher. We do not believe so.

In the case of each of the classifications, the DOT-required minimum limits are higher than in the Commission's existing program. Taking into account the change in classification as to kind of equipment required under the BRRA, the minimum limits requirements for regulated carriers would rise as follows:

Equipment class	From	DOT minimum
12 passenger capacity or less	$100,000/300,000/50,000	$750,000
13–15 passenger capacity	100,000/500,000/50,000	750,000
16 passengers or more	100,000/500,000/50,000	2,500,000

Recognizing both that DOT found that less than one-hundredth of one percent of all commercial vehicle accidents resulted in claim settlements of more than $500,000 and that there have been no substantial efforts made in recent years by the public to have our existing (even lower) minimum limits raised, we agree with DOT that the lowest levels allowed under the BRRA are sufficient.

In light of the fact that DOT considered carefully in its rulemaking proceeding the question of what limits

should be required to protect the public, the stability of the bus industry, the ability of the insurance industry to provide the coverage, and the particular needs of small and minority motor carriers, we see no need to seek comments on the same question in this proceeding. This conclusion not only is justified by the need to implement the requirements of the BRRA as soon as possible, but also by the fact that any interested person is free to petition the Commission for a rulemaking proceeding to consider higher minimum limits at any time. In the meantime, the public will have the protection intended by the new requirements imposed under the BRRA at the levels found appropriate and sufficient by the DOT. We, therefore, are adopting the same requirements as DOT.

Applicability

In addition to the carrier operations to which the BRRA applies specifically, the Commission's minimum security requirements apply to operations in foreign commerce subject to 49 CFR 1043.11. That section provides that no motor carrier may operate in the United States in the course of transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country unless it meets the security filing and maintenance requirements of section 1043.2(b), a portion of which is the subject of this rulemaking. Those operations in foreign commerce, although not subject to economic regulation by the Commission, must meet financial responsibility requirements at the same minimum limits levels as regulated operations in interstate and foreign commerce, and are automatically included in each change of such requirements. Because the changes being made here have been mandated recently by the Congress for the protection of the public, we see no reason to depart from this policy of automatic inclusion of such trans-United States operations at this time.

Effective Date

We have considered delaying the effective date for filing evidence of security reflecting the higher coverage requirements imposed under these rules adopted in order to give additional notice to the public and to solicit comments. However, to do so would be impracticable and is unnecessary and contrary to the public interest. Because of the limited nature of the changes, the ample notice given in the statute and the related DOT and Commission rulemakings and the fact that the changes are not only both urgently needed for the protection of the public and the least burdensome that we can impose under the BRRA, no such delay is warranted. Therefore, we are making rule changes effective 30 days after publication of this decision and notice in the **Federal Register** under 49 U.S.C. 553(b).

Environmental and Energy Considerations

This action does not significantly affect the quality of the human environment or the conservation of energy resources.

Final Regulatory Flexibility Analysis

Under section 18(h) of the BRRA, this Commission is required to adopt new security limits in an amount not less than such amount as the Secretary of Transportation prescribes pursuant to, or as is required by section 18 of the BRRA. All but the few passenger carriers traveling through the United States in operations between points beyond this country's borders are already subject to the same minimum limits of coverage requirements imposed in this proceeding. With respect to the carriers which are also subject to DOT's requirements, the BRRA does not give the Commission discretion to impose lower requirements. The Commission is obligated to implement the requirements of the BRRA as quickly as possible. Otherwise, the public could be subject to legal complications resulting from differences in the DOT and ICC rules. These rules make ICC and DOT requirements compatible and place the new requirements in a regulatory framework that already recognizes DOT policy determinations with respect to aggregation of coverage, qualifications of insurance companies, and the like. Moreover, the requirements may be met by using DOT forms in every situation where DOT has a prescribed form appropriate to the use. Thus, there is no duplication or overlap of the regulations. As to those carriers serving between points in foreign countries, the limits are, as they have been in the past, established at the same levels as for regulated carriers serving one or more United States points and performing operations in interstate or foreign commerce. This does not duplicate or overlap any regulation of DOT and assures the protection of the public in the same manner, to the same extent, and with respect to the same kind of vehicles as found to be required by DOT in its implementation of the BRRA. No reasonable distinction can or should be made with respect to the safety and financial responsibility issues affecting such regulated and non-regulated operations.

Although a substantial number of small entities will be affected by these rules, the impact on them cannot be lessened because this decision implements the statutory requirements of the BRRA in the least burdensome possible way. There are no significant alternatives which would accomplish the stated objectives of this proceeding or meet the statutory requirements of the BRRA.

A copy of this notice will be served on the Chief Counsel for Advocacy of the Small Business Administration, the Director of the Office of Management and Budget, and the Federal Highway Administrator of DOT.

List of Subjects in 49 CFR Part 1043

Insurance, Motor carriers, Surety bonds

Final rules

Part 1043, Subtitle B, Chapter X of Title 49 of the Code of Federal Regulations, is amended as follows:

PART 1043—SURETY BONDS AND POLICIES OF INSURANCE

In § 1043.2, paragraph (b) under paragraph (b)(1), is revised to read as follows:

§ 1043.2 Security for the protection of the public: Minimum limits.

* * * * *

(b)(1) * * *

(b) *Passenger Carriers*

Kind of Equipment

Vehicle seating capacity	Effective dates	
	Nov. 19, 1983	Nov. 19, 1985
(1) Any vehicle with a seating capacity of 16 passengers or more	$2,500,000	$5,000,000
(2) Any vehicle with a seating capacity of 15 passengers or less	750,000	1,500,000

* * * * *

Authority: 49 U.S.C. 10321, 10927, and 5 U.S.C. 553.

Decided: January 5, 1984.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

James H. Bayne,

Acting Secretary.

[FR Doc. 84-923 Filed 1-16-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination That Bufo Hemiophrys Baxteri (Wyoming Toad) is an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Bufo hemiophrys baxteri* (Wyoming toad) to be an endangered species. This toad is now known to occur only in one 40-acre area of privately-owned land in Albany County, Wyoming. Formerly abundant in the Laramie Basin, the toad has virtually disappeared from all known sites; only two immature specimens were located in a 1983 survey. The cause of its precipitous decline is uncertain. The Service requested information on the species in a proposed rule that appeared in the **Federal Register** on January 27, 1983 (48 FR 3794). The determination that *Bufo hemiophrys baxeri* is endangered will implement Federal protection provided by the Endangered Species Act of 1973, as amended.

DATES: This rule becomes effective February 16, 1984.

ADDRESSES: Comments or questions concerning this action should be sent to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225.

FOR FURTHER INFORMATION CONTACT: Dr. James L. Miller, Staff Biologist, Endangered Species Office, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225 (303/234–2496).

SUPPLEMENTARY INFORMATION:

Background

Bufo hemiophrys baxeri (Wyoming toad) was discovered by Dr. George T. Baxter in 1946 (Porter, 1968). A related toad, *Bufo hemiophrys hemiophrys* (Canadian toad), occurs in Manitoba, Alberta, Saskatchewan, Minnesota, Montana, and North and South Dakota. The Wyoming toad a is thought to be a relictual population left behind as glaciers retreated. Some authors (Packard, 1971) have argued that the Wyoming toad is a full species, but Porter (1968) presented evidence that it is subspecifically distinct from *Bufo hemiophrys hemiophrys* (but see comments of J. D. Stewart cited below). The toad is small (2-inch) bufonid with cranial crests fused into a medial "boss." It is the only toad in the Laramie Basin. Since its discovery, Dr. George Baxter has taken students in summer from the University of Wyoming to observe the Wyoming toad. Known breeding places were visited regularly for over 30 years. After very few toads were heard or seen from 1975 through 1979, an intensive survey was conducted throughout the Laramie Basin in 1980. A reward for information on the toad was advertised in local newspapers and resulted in one population being located on private land in Albany County, Wyoming. A number of males were heard calling, but no females were found nor were any tadpoles or egg masses discovered when the area was checked later. The population existed within a 40-acre area and was thought to consist of about 25 individuals; surveys in 1981 revealed only one male and one female. A survey conducted by the State of Wyoming was able to again locate only two toads in this area in 1983. The reasons for the basinwide disappearance are not understood although the leopard frog (*Rana pipiens*) was also found to be suddenly absent from the Laramie Basin. However, the northern chorus frog (*Pseudacris triseriata*) remains abundant in the Laramie Basin. Baxter *et al.* (1982) reviewed the biological status of the species and speculated on possible reasons for decline.

Summary of Comments and Recommendations

In the January 27, 1983, **Federal Register** proposed rule (48 FR 3794) and associated notifications and press releases, all interested parties were requested to submit factual reports or information which might contribute to the development of a final rule. A letter was sent to the Governor of Wyoming notifying him of the proposed rule and soliciting his comments and suggestions. All comments received were considered.

Comments were received from the Wyoming Executive Department, the Wyoming Game and Fish Department, the Colorado Field Office of The Nature Conservancy, Mr. J. D. Stewart of the University of Kansas Museum of Natural History and Dr. George T. Baxter of the University of Wyoming. All comments supported the proposal for listing this species.

The Wyoming Executive Department suggested that any recovery strategy must recognize and protect the private-landowner interests in the affected area and if a viable population is discovered on private lands in the Laramie Basin, it should be relocated to areas of Federal lands where it can receive adequate protection. The Service agrees that any recovery strategy must recognize private landowner rights; only by cooperation may the survival of this unique toad be ensured. However, removal of a viable population from an area solely because it occurs on private land is not biologically justified and may contribute further to the species' precarious status. The Service will carefully consider all viable options to ensure the survival of the toad during the development of a recovery plan and will work closely with private landowners both to protect the unique Wyoming toad and cause minimum disturbance to the lifestyle of Laramie Basin residents.

The Wyoming Game and Fish Department was concerned that viable populations of this species may no longer exist. It conducted a survey in 1983, in conjunction with the University of Wyoming and the U.S. Fish and Wildlife Service, that located only two immature individuals on the same private property in Albany County where a number of calling males had been heard in 1980.

Dr. Mark R. Stromberg of The Nature Conservancy indicated in his response that limited field observations for the toad were conducted in 1982; however, no populations were found at that time.

Mr. J. D. Stewart of the University of Kansas Museum of Natural History indicated that in 1981 and 1982, he collected numerous fossil toad elements from a site in northwestern Kansas that has produced a boreal fauna including many taxa now restricted to the Rocky Mountains. Subsequent study of these elements showed them to belong to the Wyoming toad. Although there is no published information on how to distinguish the bones of *Bufo hemiophrys hemiophrys* from those of *Bufo hemiophrys baxteri*, Stewart has found that the skulls are easily differentiated. His analysis further indicated that the osteological differences between the two "subspecies" exceeds the degree of difference between some recognized species of *Bufo*.

Dr. George T. Baxter of the University of Wyoming commented that this toad is "surely endangered." During 1982, Dr. Baxter surveyed the 40-acre privately-owned area where a number of calling males had been heard in 1980. His search yielded no calls or toads.

No public meeting was requested on the proposed listing, nor were any unfavorable comments received.

Summary of Factors Afffecting the Species

After a thorough review and consideration of all available

information, the Service has determined that *Bufo hemiophrys baxteri* (Wyoming toad) is an endangered species due to one or more of the factors described in Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*). The Service has determined that *Bufo hemiophrys baxteri* is primarily affected by factors A, C, and D.

All five factors and their application to the Wyoming toad are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Historic ranching practices involved flooding the plains adjacent to the Little Laramie River. Changes in irrigation practices due to current increased demand for irrigation water may have resulted in the drying out of former habitats before tadpole development was complete. The specific use and timing of irrigation waters is largely left up to landowners. Local irrigation districts control regional water use. Research is needed on the changes in irrigation practices since 1970 to determine if they may have contributed to the decline.

Drainage of habitat for non-irrigation uses may have contributed to the decline of the toad.

The use of the herbicide Atrazene is known to decimate *Bufo* populations (Beebee, 1973) and it can be introduced into watersheds in sufficient levels to kill *Bufo* eggs or tadpoles. Atrazene is widely available throughout the Laramie Basin. Other herbicides, such as Tordon, are more commonly used than Atrazene, but the effects of these chemicals on amphibians are largely unknown. Herbicides are often used by the Weed and Pest Districts, Wyoming Department of Agriculture, for "noxious" weed control in roadside ponds and along field edges typically used by the Wyoming toad. Basinwide aerial application of Baytex (Fenthion) with diesel fuel began in 1975. This mosquito control technique, applied with little control on drift of the spray, may be highly toxic to bufonids. Some evidence indicates that diesel fuel alone is toxic to amphibians. More research is needed on this topic.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not applicable for this species.

C. *Disease or predation.* Disease in *Bufo hemiophrys baxteri* has not been studied. However, the extremely small population exists in a limited area and a disease outbreak could be catastrophic. Predation may be a major factor in the decline of the Wyoming toad. The California gull (*Larus californicus*) population has increased greatly in recent years. Local ranchers report that field are literally white with gulls in early spring. Raccoons, foxes, and skunks have all shown population increases. These factors combined could pose a serious threat to the Wyoming toad.

D. *The inadequacy of existing regulatory mechanisms.* The use of herbicides and other chemicals in Wyoming is regulated with regard to effects on fish, but not on amphibians. In fact, bioassay data are lacking on the effects that widely applied chemicals have on amphibians. The apparent inadequacy of the regulations may be due to the lack of recognition of a problem with amphibians.

E. *Other natural or manmade factors affecting its continued existence.* None are known.

Critical Habitat

The Act (Section 3; 50 CFR Part 424) defines "critical habitat" to include (i) specific areas within the geographical area occupied by the species at the time it is listed which are essential to the conservation of the species, and which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed, upon a determination by the Secretary that such areas are essential for the conservation of the species.

Critical Habitat is not being determined for *Bufo hemiophrys baxteri* since only two immature individuals were located during field surveys in 1983. Indeed, prior to this year, the Wyoming toad was last reported in 1981 from two individuals located in the Laramie Basin; surveys in 1982 did not reveal any toads. The Service therefore believes that critical habitat is not determinable. The Service notes, however, that not all of the potential habitat in the Laramie Basin has yet been surveyed. Should future surveys discover significant breeding populations, these areas could then be considered as critical habitat.

The Wyoming toad is considered an extremely rare amphibian. The publication of the exact area where the toads last bred could lead to jeopardy to any remaining individuals through collection. The best available biological data indicate that, due to apparent low population size, removal of any individuals from the population other than for purposes directly related to conservation could be detrimental to the species' survival

Available Conservation Measures

The Act and its implementing regulations published in the June 24, 1977, **Federal Register** (42 FR 32373–23281; presently under revision to comply with recent amendments) set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These regulations are found at § 17.21 of 50 CFR and are summarized below.

With respect to the Wyoming toad, all prohibitions of Section 9(a)(1) of the Act, as implemented by § 17.21, now apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. When this rule becomes effective, it will also be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions apply to agent of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, the enhancement of propagation or survival of the species, and economic hardship. Section 10(a)(1)(B) of the Act also authorizes permits for the taking of endangered species incidental to otherwise lawful activities.

Section 7 of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is listed as endangered or threatened. Section 7(a)(2) requires Federal agencies to ensure, in consultation with the Service, that activities they authorize, fund, or carry out, are not likely to jeopardize the continued existence of the Wyoming toad. Provisions for interagency cooperation are codified at 50 CFR Part 402. Proposed revised regulations to implement the 1982 amendments to Section 7 have recently been published (June 29, 1983; 48 FR 29989–30004).

National Environmental Policy Act

In accordance with a recommendation from the Council on Environmental Quality (CEQ), the Service has not prepared any NEPA documentation for this rule. The recommendation from CEQ was based, in part, upon a decision in the Sixth Circuit Court of Appeals which held that the preparation of NEPA documentation was not required as a matter of law for listings under the Endangered Species Act. *PLF v. Andrus* 657 F.2d 829 (6th Cir. 1981).

Authors

The primary author of this rule is Dr. James L. Miller, Region 6 Endangered Species Office, Denver, Colorado (303/234–2496). Dr. C. Kenneth Dodd, Jr. and Mr. John L. Paradiso, Office of Endangered Species, Washington, D.C., served as editors.

References Consulted or Cited

Baxter, G. T., and M. Stone. 1980. Amphibians and reptiles of Wyoming. Wyoming Game and Fish Department Bulletin, Laramie, WY. 137 pp.

Baxter, G. T., and M. Stromberg. 1980. Status Report. Rep. to U.S. Fish and Wildlife Service, Denver, Colorado, U.S.A. 5 pp. (mimeogr.)

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Beebee, T. J. C. 1973. Observations concerning the decline of the British amphibia. Biol. Conserv. 5:20–24.

Hazelwood, E. 1970. Frog pond contaminated. Brit. J. Herpetology 4:177–185.

Johnson, C. R., and J. E. Prine. 1976. The effects of sublethal concentrations of organophosphorus insecticides and an insect growth regulator on temperature tolerance in hydrated and dehydrated juvenile western toads, *Bufo boreas*. Comp. Biochem. Physiol. 53A:147–149.

Packard, G. C. 1971. Inconsistency in application of the biological species concept to disjunct populations of anurans in southeastern Wyoming and northcentral Colorado. J. Herpetol. 5:191–193.

Porter, K. P. 1968. Evolutionary status of a relict population of *Bufo hemiophrys* Cope. Evolution 22:583–594.

Sanders, H. O. 1970. Pesticide toxicities to tadpoles of the western chorus frog, *Pseudacris triseriata*, and Fowler's toad, *Bufo woodhousei fowleri*. Copeia 1970:246–251.

Stromberg, M. R. 1981. Wyoming Toad (*Bufo hemiophrys baxteri*) endangered. J. Colo.-Wyo. Acad. Sci. 13(1):47.

Vankirk, E. A. 1980. Report on Population of *Bufo hemiophrys* on Laramie Plain, Albany County, Wyoming. Rep. to Wyoming Natural Heritage Program, The Nature Conservancy, Cheyenne, Wyoming, U.S.A. 6 pp. (mimeogr.)

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Fish, Marine mammals, and Plants (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subpart B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Section 17.11(h) is amended by adding, in alphabetical order, the following to the List of Endangered and Threatened Wildlife under "Amphibians."

§ 17.11 Endangered and threatened wildlife.

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
•	•	•	•	•	•	•	•
Toad, Wyoming	*Bufo hemiophrys baxteri*	U.S.A. (WY)	Entire	E	138	NA	NA
•	•	•	•	•	•	•	•

Dated: December 20, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84–1180 Filed 1–16–84; 8:45 am]

BILLING CODE 4310–07–M